

TRENDS IN PUBLIC POLICY AFFECTING AGRICULTURE

As Interpreted from Legislative Developments in Ohio

H. R. Moore

Department of Rural Economics
Mimeograph Bulletin No. 111

Ohio State University
and
Ohio Agricultural Experiment Station

Columbus, Ohio
August, 1938

TRENDS IN PUBLIC POLICY AFFECTING AGRICULTURE⁽¹⁾

(As Interpreted from Legislative Developments in Ohio)

Since Ohio became a State in 1803 its legislature has enacted many laws which in some way affect agriculture. The whole mass of this law roughly fits into a pattern of public policy; - a policy developed by accretion over a long period of years, and subject to further change in the future. The history of this legislation is largely a description of men's efforts to make adjustments to a changing environment. Much that pertains to agricultural policy is on the national rather than state level of law making. On the other hand state policy must fit into the national pattern and local developments afford considerable scope for discussion on a state basis.

Naturally, Ohio's original institutions and laws were patterned after those already developed in the states to the east from whence our early settlers came. But starting from this point the processes at work represent the influences which arose incidentally as our population grew from 45,365 in 1800 to nearly 7,000,000 at present; - as our agriculture expanded to cover nearly all available land; - as, in addition, urban industries became the source of livelihood for much of our population; - as problems began to develop in respect to our natural resources in soil, timber, waters, and minerals; - as the developments of science and inventions threw innumerable cross currents into our economic and social life. The influence of these forces has stimulated most of the legislation related to agriculture.

Our pioneers are presumed to have adhered closely to the philosophy that the main function of government was to protect person and property while they individually exploited the resources of a new country. In practice, however, some other community services, particularly roads, education and poor relief, were already being put on a public basis in America by the time Ohio was opened to settlers. Naturally those services were on a simplified, low cost basis in keeping with the sparse population and limited wealth.

Starting with the policy of little government, low taxes, and a maximum of freedom for individual enterprise, the trend, if there were one, could logically move in only one direction - toward enlarging the scope of governmental functions not only in respect to agriculture but to all types of enterprise. A short summarization under certain topical heads will help draw some of the lines of development together.

(1) This bulletin summarizes some of the material in a longer publication, Mimeograph Bulletin No. 112, entitled "Development of Legislation in Ohio That Relates to Agriculture."

RESTRICTION AND REGULATION

Use of the police power is no new thing. The State, through its legislative body, always has applied regulation when such was deemed to advance the general welfare; and when so viewed a constant policy has prevailed. The fact that impresses is the extension in the use of the police power to so many new fields. Most of this expansion has come since about 1880 with relatively mild beginnings before the Civil War. It may be observed also that the degree of regulation in a particular case often illustrates how a slight amount of regulation will be applied at first followed by more and more as experience and time demonstrate the amount of restriction which appears necessary to achieve a certain result. A few developments may be mentioned which particularly illustrate the reasons why the police power has been extended so much in the past two generations.

Public Health.- Ideas on sanitation were gaining headway in the 1850's and by the 1880's several diseases were clearly associated with micro-organisms. Thus the importance of safeguarding the public health through supervision over food supplies has led to a considerable share of the activities of boards of health and of the State Department of Agriculture.

Animal Diseases.- The livestock industries of the State have been menaced at various times by epidemics of disease while others have become more or less endemic. Control measures began to be used shortly after human health regulations were established, i.e. in the 1880's and have been gradually expanded ever since, due partly to scientific discoveries and partly to the fact that the constant and widespread transportation of animals has greatly increased the disease hazards.

Plant Diseases.- A similar development in plant diseases has occurred. The upsetting of nature's balance incidental to the destruction of our forests; the introduction of new plants; the commercial movement of fruits, vegetables, and nursery stock; the introduction of foreign insect pests and diseases brought the situation to a climax between 1890 and 1900 and since then rigorous control measures have appeared necessary.

Prevention of Fraud.- The commercialization of agriculture, naturally, has expanded the volume and type of products passing through the market place and has been associated with the development of several new industries related to agriculture: e.g. commercial fertilizers, developed as the natural productivity of our soils declined; the canning industry; the dairy industry; commercial livestock feeds.

Conservation and Use of Natural Resources.- Fish and game laws, forest fire prevention, flood control, drainage, pollution of water courses - all these subjects have required some use of the police power in order to serve the public interest. It is particularly in this field of natural resources that we may anticipate some future developments in regulation due to the fact that public interest is being focused more and more on problems associated with land use and conservation.

The following chronology is supplied to illustrate the trend of events in respect to regulation affecting certain subjects related to agriculture.

Grist Mills

- 1799 Territorial law established the legal toll allowed millers for grinding grain.
- 1805 Amended and still on books.

Inspection of Farm Products for Export

- 1805 Provision made for appointment of county inspectors and packers of flour, meal, butter, biscuit, lard, pork, and beef when these were to be exported from the State. Penalties were provided for violations.
- 1824 and 1831. Law extended to other articles.

Weights and Measures

- 1811 A standard legal dry measure adopted. County commissioners were to appoint a county sealer. Enforcement was local only.
- 1835 A comprehensive weights and measures law adopted. The Secretary of State made ex-officio State Sealer.
- 1836 Congressional resolution to encourage a uniform standard of weights and measures throughout the United States.
- 1846 Ohio adopted the United States standards as official.
- 1891 The Professor of Physics at Ohio State University made ex-officio State Sealer.
- 1910 Dairy and Food Commissioner made State Sealer.
- 1913 The above duty conferred on the Agricultural Commission.

Fish and Game

- 1830 The first game law - a closed season on muskrats.
- 1857 A reasonably comprehensive game law enacted.
- 1869 Fishing first regulated.
- 1886 The office of Fish and Game Commissioner created.
- 1913 The above duties taken over by the Agricultural Commission.

- 1929 Division of Conservation created with authority over lakes, parks, and game preserves, under the direction of a conservation council.

Foods

- 1831 Penalties provided for vending unwholesome meats and other provisions.
- 1869 Municipal boards of health granted authority to supervise the production of food sold in their respective municipalities.
- 1874 Dairy barn inspection by boards of health specifically authorized.
- 1884 The first comprehensive pure food law enacted.
- 1886 The office of State Dairy and Food Commissioner created. The laws have been amended frequently since then particularly to conform to the National Acts of 1906 and 1913.
- 1917 Bureau of Markets created with duties including the regulation of grading, packing, handling, storing, and selling farm produce.
- 1933 Creation of the State Milk Marketing Commission disbanded in 1935 by expiration of the enabling Act.
- 1933 Act to prevent fraud and deception in the branding of fresh fruits, vegetables, and honey.

Commercial Fertilizers

- 1878 Act requiring a printed analysis on each package of fertilizer; no administrative machinery provided.
- 1881 Compulsory analysis of fertilizers by the Secretary of the State Board of Agriculture and penalties provided for fraudulent practices. Manufacturers were licensed. Numerous amendments have been made but the scheme of control is unchanged.

Livestock Diseases

- 1885 Act to suppress communicable diseases of livestock; administration by three Livestock Commissioners.
- 1888 Quarantine on cattle from regions infested with Texas fever.
- 1902 The State Board of Agriculture assumed the duties of the Livestock Commissioners. Authority conferred to inspect and quarantine premises and livestock and to destroy the latter when infected.
- 1913 and 1917. A plan developed to regulate the importation of cattle to control tuberculosis and other infectious diseases.
- 1925 Plan adopted for the universal testing of cattle for tuberculosis.
- 1935 Licensing of livestock dealers to control diseases and business practices. This Act was amended in 1937 to improve its effectiveness.

Plant Diseases and Pests

- 1892 Act to control black knot on cherry and plum trees.
- 1893 Amendment to include the control of peach yellows. Enforcement given to township road superintendents.
- 1895 Control given to three fruit commissioners appointed by the township trustees.
- 1896 San Jose scale control inaugurated on the above township basis.
- 1900 Creation of a Division of Nursery and Orchard inspection in the Agricultural Experiment Station. Nurserymen were licensed.
- 1902 The above duties transferred to the State Board of Agriculture.
- 1904 Creation of a Division of Nursery and Orchard Inspection under the State Board of Agriculture.
- 1910 Spraying for scale insects in all orchards made compulsory.
- 1927 Corn borer eradication campaign. Quarantine by Department of Agriculture authorized.

Apiary Inspection

- 1904 Legislation provided for county inspectors of apiaries.
- 1910 A Division of Apiary Inspection established under the State Board of Agriculture.

Commercial Feeds

- 1904 Act requiring manufacturers be licensed and analysis must be shown on each package of feed offered for sale. Administration by the State Board of Agriculture.
- 1934 Latest amendment. The general method of control was unchanged.

Agricultural Seeds

- 1913 Dealers licensed and seeds inspected by the State Board of Agriculture.
- 1935 Amendment to cover the development of the certified seed business.
- 1937 Act to require manufacturers of seed, soil and plant inoculants be licensed.

Insecticides and Fungicides

- 1913 Manufacturers licensed by the State Board of Agriculture. Inspection and analysis provided.

Reduction Plants

- 1919 The business of handling the bodies of dead animals made subject to licensing and inspection by the State Board of Agriculture.

Forest Fires

- 1921 Legislation to control the forest fire menace and to regulate the kindling of outdoor fires in forest areas. Administration is by the State Forester.
- 1927 Amendment to improve the effectiveness of the above Act.

LEGISLATION TO PROMOTE GROUP ACTIVITIES

In a broad sense all governmental functions represent group action performed by the State which is all the people. In addition, the State, in its sovereign power, grants corporate charters to private groups to do certain specified things. The right of corporate action is necessarily restricted but it is also a privilege. The development of the legal framework of private corporations related to agriculture represents an important phase of public policy.

Agricultural Societies.- In 1828 the first agricultural society (Geauga County) was incorporated by a special legislative Act and the same procedure was used in respect to three other societies in the next three years. Legislation in 1833 provided for the encouragement of agricultural societies by an annual county appropriation but did not confer any corporate powers. In 1853 agricultural societies were made corporate bodies for the purpose of owning and improving real estate.

By the middle of the 19th Century the public policy in respect to agricultural societies was well established. They are organized as private non-profit corporations; but due to their educational purpose in aiding agriculture they are treated as public institutions legally qualified to receive the support of public funds. Their public purpose is likewise recognized by the right to use the power of eminent domain in the acquisition of real estate.

The Development of Mutual Insurance Companies and Associations.- Their history goes back to the incorporation of individual companies by special acts of the legislature at least as early as the 1830's. Then in 1857 a general law was adopted to cover the incorporation of mutual insurance companies. In the subsequent development this type of insurance has by no means been limited to agricultural property. On the other hand mutual insurance associations are usually concerned with rural property and represent one of the most successful types of cooperation among farmers. By the law of 1877 the organization of these associations was provided for under different code sections whereas previously no legal distinction was made between mutual insurance companies and associations. A characteristic feature is that associations are usually organized on a county or township area basis.

The development of public policy relative to these companies has apparently raised few controversial issues. The law has been amended frequently in order to extend insurance coverage to new objects or to insure against new hazards or to adjust the conditions relative to reserves, advance premiums, etc. These changes have generally been to foster safer business practices as well as to extend provisions for coverage. State supervision is supplied the same as for stock insurance companies. In short, the law has recognized and provided for non-profit corporations or associations for purposes of insurance for the past century and the legislation enacted since then represents the adjustments found desirable through experience or necessity, to meet the requirements as conditions affecting property have changed.

Cooperative Associations.- The development of public policy relative to agricultural cooperatives for purposes of purchasing and selling commodities has a legal history starting in 1867. Legislation since then separates into two cycles, the first following the Civil War, the second after the World War. The following chronology covers the Acts related directly to cooperatives and some other significant legislation which marks the transitional stages in which the general corporation laws were being supplemented to provide corporate organizations suitable to agricultural needs.

1867 (March 29). The Ohio legislature authorized the incorporation of elevator companies. Cooperative principles were not mentioned.

1867 (April 13). The Ohio legislature provided for the creation of cooperative trade associations for the purpose of purchasing grain, goods, groceries, etc., and distributing same to consumers. Stockholders were subject to double liability. Dividends were to be distributed to stockholders in proportion to purchases. Granges were very active in sponsoring this movement.

1869. The Corporation Act of 1852 amended to provide for the formation of floral, horticultural, nursery, and fruit companies. Cooperative principles were not mentioned.

1874. Act of 1869 supplemented to include the organization of companies for the promotion of agriculture and the mutual benefit and gain of those engaged therein in the purchase and sale of stock, commodities, etc. This Act placed some emphasis on sales as well as purchases.

1878. Sections were added to the Act of 1867, which was an amendment to the Corporation Act of 1852, to provide for wool growers associations, and associations to protect birds, game, and livestock.

1884. The general Corporation Act was amended to provide that through the articles of incorporation (a) stockholders could be limited to one vote; (b) in such case \$1000 in stock would be the maximum allowed one person; (c) net earnings could be distributed among workers, patrons, and shareholders.

1913. The Legislature appointed a commission to study rural credits and cooperatives in the United States and Europe in order to establish a sound system of farm finance and cooperative organization in Ohio.

1920. The Griswold Act to provide for agricultural cooperatives. Each member was held liable for his per capita share of the association's debts.

1921. The Brand Act. An addition to the Act of 1920, to provide for cooperative marketing associations. Gave supervision to the State Public Utilities Commission. Allowed an annual assessment of \$100 to cover cost of inspections and investigations. Gave emphasis to the public policy of preventing restraint of trade and competition.

1922. Act by Congress (The Capper-Volstead Act) to authorize farmers to associate in corporations to prepare and market their products in interstate and foreign commerce. Significant provisions were:

- (a) operations must be for the mutual benefit of producers;
- (b) each member to have one vote;
- (c) dividends on capital limited to 8 per cent;
- (d) products handled for non-members could not exceed the amount handled for members.

1923. The Farnsworth-Green Act passed by the Legislature to replace the Acts of 1920 and 1921. This new law conformed closely to the Federal Act of 1922 to cover intra-state business. Member liability was limited to the amount of unpaid stock subscribed for or unpaid membership fee. The Act provided for purchasing, selling, and also for financing activities.

1933. Amendment to the Act of 1923 to clarify the point that two or more marketing associations can confer with two or more purchasers relative to joint enterprises or prices without being considered to be acting in restraint of trade.

To summarize: Since 1867 the two particularly important legal developments relative to agricultural cooperatives are: (1) implementing the statutory law with the necessary provisions to direct organization in conformity with cooperative principles, - namely, each member one vote, patronage dividends, limited rate of return on capital investment; and (2) development of a legal distinction between such farmers' organizations and business monopolies in restraint of trade. Since the latter is a particularly important point in public policy the following section of the Ohio law enacted in 1923 is quoted:

Sec. 10186-26. Not in "restraint of trade".- "No association organization hereunder and complying with the terms thereof shall be deemed to be a conspiracy or a combination in restraint of trade or an illegal monopoly; or an attempt to lessen competition or to fix prices arbitrarily nor shall the marketing contracts and agreements between the association and its members or any agreements authorized in this Act be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose."

AGRICULTURAL EDUCATION

The vocation of agriculture has long relied on the accretion of empirical knowledge and folk lore handed down from generation to generation of farmers. As various sciences developed, their application to agriculture was recognized and people interested in agriculture began to consider ways and means to carry their application to the tillers of the soil. Also it was recognized that the well-being of the agricultural population was dependent on the cultural advantages available to farm people. The emergence of these ideas as legislation represents more than a century of development.

First came the organization of local self-supporting agricultural societies whose worth was recognized a few years later by support through taxation. Next was the creation of a central State agency, the Agricultural Board, to supplement, encourage and coordinate county agricultural societies. The men active in these organizations proclaimed the need for agricultural education in the common schools and high schools, the founding of agricultural colleges and the public support of agricultural research and experimentation. The reasons for their belief that the support of agricultural education should be accepted public policy were variously stated but can be classified about as follows:

- (1) The economic welfare of all the people is dependent on the promotion of agriculture which is the chief basic industry.
- (2) Agriculture is divided into too small production units for each farmer to do his own experimentation.
- (3) Agricultural education and research would aid all the people through making farm products more plentiful and cheaper.
- (4) The prosperity of the non-farm population is dependent on the purchasing power of the farm population.
- (5) Whereas the population of our cities must be recruited from rural districts the cultural level of our farm people affects urban social conditions.
- (6) Our success as a democratic people is dependent on the economic and social well-being of the farm population.

How the vision of our early agricultural leaders such as Norton S. Townshend, John H. Klippart and William Lawrence became reality involves many events and much time. Restricting comment to the enumeration of legislation cannot tell the story but merely indicates the legal framework about which agricultural education has been built.

A brief chronology of certain events, enumerated below, depicts how agricultural education has grown to its present stature:

1818 First agricultural society organized in Ohio.

1828 A special Act of the Legislature to incorporate the Agricultural Society of Geauga County.

1833 A general law was enacted to provide for the organization of agricultural societies to be aided by county appropriations.

1846 Legislative Act creating a State Agricultural Board to coordinate the activities of agricultural societies and inquire into and report on the condition of agriculture.

1862 Congress donated land to support State Agricultural and Mechanical Colleges (The First Morrill Act).

1865 Ohio accepted the offer of the Federal Government and the Ohio Agricultural and Mechanical College began to function in 1873.

1882 Enactment of State legislation to establish The Ohio Agricultural Experiment Station.

1887 Congress provided Federal Aid for the establishment of agricultural experiment stations. Since then additional annual aid has been granted by Federal Acts in 1906, 1925, and 1935.

1890. The Legislature authorized counties to support farmers' institutes. The State Agricultural Board had made expenditures for these since 1880.

1890. Additional aid granted by Congress to land grant colleges (The Second Morrill Act).

1909 State legislation to inaugurate agricultural extension work by the College of Agriculture.

1911 The Ohio Legislature provided for teaching agriculture in the common schools.

1914 The Agricultural Extension Act by Congress authorizing cooperative work with the Land Grant Colleges to give instruction in agriculture and home economics. Federal Acts in 1925 and 1935 have granted additional aid.

1915 The Ohio Legislature provided for the use of any Federal funds made available for extension work. This Act created the present system of county agricultural extension agents.

1917 Congress passed the Smith-Hughes Act providing for a system of vocational education. Since then additional aid has been granted by Acts in 1929 and 1937.

1917. Enabling legislation provided to establish vocational education in Ohio as provided by the Smith-Hughes Act.

OHIO'S FARM TAX POLICY

Originally, property taxation was adopted as the keystone of Ohio's system of public finance. Before 1900 it yielded about 90 per cent of all State and local revenues, but this proportion was reduced to about 75 per cent by 1916 and to less than 50 per cent by 1936. The above figures indicate how the demands for public service have so expanded during the past generation that the property tax system no longer serves to support even local government whereas the State government now relies entirely on other sources of revenue. Nonetheless, taxation of property still constitutes the principal tax problem of agriculture due to the fact that the industry is dependent on the utilization of relatively large amounts of real property and chattels on which taxes constitute an important item of expense. It is logical, therefore, to inquire whether events in the past century and more in any way point to the evolution of a special tax policy in respect to agriculture, a policy aimed to fit the particular circumstances associated with rural wealth and business.

In respect to rural property the first exception to the uniform rule of property taxation applied to forest land. The legal basis for this action was the conservancy clause of the State constitution of 1912 which gave the legislature authority to pass laws to encourage forestry by modifying the property tax law. This was done in 1925 and at present operates in respect to more than 50,000 acres of privately owned woodlands.

The next change was the constitutional amendment in 1930 which provided for the adoption of a classified personal property tax. The principal significance of this change was that the so-called uniform rule of property taxation, which had been in operation since 1831, was definitely broken. The tax burden on nearly all types of personal property was reduced from 30 to 50 per cent and motor vehicles and household goods entirely exempted. This action applied to all personal property and so cannot be designated as a change of farm tax policy alone.

In 1934 the Legislature amended the law governing the valuation of real estate for taxation. Specifically the amendment provided that evergreen and deciduous trees, plants, and shrubs would not be included in the tax valuation of real property. The effect of this is to exempt timber growth, orchard trees, and vineyards from taxation.

Another legislative development of minor importance was the granting of a lower license fee on motor trucks owned by farmers and used exclusively to transport the products of the owner. This legislation enacted in 1936 was in recognition of the fact that the restricted amount of use of such vehicles and the consequent annual wear and tear on highways justify a lower license tax than when trucks are used more constantly in commercial hauling.

As mentioned above the property tax was originally the principal source of both State and local revenues. The adoption of various business licenses and excise taxes has been forced partly by the fact that the demand for public revenues has exceeded the capacity of the property tax to bear the load, and partly out of recognition that the capacity of individuals to support government is not measured exactly by the value of their property. The transition started gradually generations ago but has moved more rapidly in recent years as exemplified by the adoption of numerous excise taxes the most important of which is the retail sales tax. This has shifted an important part of the tax load from a property value base to a sales or consumption base. These changes have been largely measures of expediency although they suggest legislative recognition of the fact that a tax system is a force which tends to influence the economic and social relationships of a community, a point well illustrated by the history of highway management and finance.

HIGHWAYS

When Ohio became a State in 1803 the accepted policy was to open up and maintain a system of earth roads to serve every community and farm. These roads, often little more than trails, were designated as township, county, and State roads. For the most part establishment and maintenance were administered locally by the township trustees and road supervisors. Most road labor was without pay for the law required that two days free labor be donated annually by every able-bodied male inhabitant 21 to 60 years of age.

Some State Aid for roads was granted from 1804 to 1850 and was reestablished in 1904 when a State Department of Highways was organized. The earlier period corresponds roughly with the era of stage coach and freight wagon transportation over long distances and by 1904 some demand was developing for roads suitable for motor vehicles. Evidently public support and management of highways have been recognized as desirable public policies throughout Ohio's history. On the other hand, another policy also functioned in the early days when most improved roads or "turn-pikes" were built and operated by private corporations charging tolls. This was an adaptation of the policy of charging for the service rendered. In the forty years following the Civil War this policy was gradually abandoned by making nearly all roads free to the traveler; maintenance and improvement costs being almost entirely paid out of general property taxes and special assessments on real estate. By the year 1900 relatively few toll roads remained in Ohio and they were legislated out of existence in 1910. Free labor on the roads also became an obsolete practice in the decade of 1900 to 1910 and the law was repealed in 1915.

In 1908 the State started to license motor vehicles, at first largely as a means of regulation but soon as a device to collect revenue for road purposes. The gasoline tax was adopted in 1925 and since then the financing of the road system has been less dependent on property taxes. Motor vehicle traffic has brought back the policy of letting the traffic bear most of the cost but the transition was too slow to save the farmer from a period of high taxes and special assessments levied to improve the road system. The road laws were thoroughly revised in 1915 but road finance still depended mainly on property tax levies and special assessments. This tax expense, partly to retire road bonds, contributed to a rapid increase in real estate tax delinquency since 1925. Only since 1930 has the transition in road finance been completed. This change was hastened by the economic depression which affected property tax revenues more severely than motor vehicle licenses and the gasoline tax. Thus, we have returned to about the same policy used a century ago; one difference being that instead of paying tolls, which would be inconvenient to the traveler and expensive to collect, we pay motor vehicle licenses and motor fuel taxes. Another difference is that complete public management of the road system is now accepted policy.

LAND USE LEGISLATION

The State as a Land Owner

The national land policy under which Ohio was settled transferred public land to private ownership as fast as demand developed. In respect to agricultural land the only important exceptions were: the reservation, by Congressional Act, of one section of land for each township in the State for the support of common schools; by contractual agreement, Section 29 of each township in the Ohio Company's Purchase and the Symmes Purchase for the support of churches; two townships for the support of what is now Ohio University and one township for Miami University. These lands were settled and operated as farms in the usual fashion with the provision that an annual rental be paid for the use of the land. In course of time much of the school lands have been sold and the funds deposited in the State Treasury.

The history of public management of these school and ministerial lands (not the college lands) indicates that this was not a profitable venture. Management was on a township basis until 1917 when the Auditor of State was made the State Supervisor of School and Ministerial lands. For the year 1936 interest on trust funds arising from the sale of these lands through the years amounted to \$61,921.24 and receipts from land rentals amounted to \$11,798.86, a total of \$73,720.10. After 133 years of public management this total represents the annual income from the original public ownership of more than 1/36 of the land in Ohio.

Development of a Forestry Policy

Some of our agricultural leaders in pre-Civil War days recognized the need for the development of a State forestry policy. By 1885 public opinion on the subject had advanced to the point where the Legislature created a Bureau of Forestry at Ohio State University and gave an appropriation of \$1000 to support the work. In 1906 the activity was transferred to the Agricultural Experiment Station by legislation creating the Department of Forestry. The research work was gradually expanded but its influence did not stop the wastage of woodlands.

As time passed it became increasingly obvious that public ownership of extensive areas poorly adapted to crop production was desirable in order to conserve and develop the forest resources of the State. The first step in the construction of the legal framework was the insertion of the conservancy clause in the State constitution of 1912.

At the instigation of the Agricultural Commission a conference was held in the Senate Chamber, May 27, 1914, to consider the questions of forest conservation, reforestation, the relation of forests to flood prevention, the best means to prevent the pollution of the waterways of the State, and related subjects. Out of this conference a committee was formed which studied the question under the following subdivisions:

1. School, ministerial and tax reverted lands
2. Purchase of real estate for forest and game preserves
3. Forest taxation
4. Municipal forestry
5. Nursery work
6. Fire protection

The report made on the above subjects supplied much of the substance for legislation on forestry, game preserves, etc., which was enacted in 1915 and ensuing years. The policy of forest land acquisition was enacted into statutory law in 1915. Excepting the acquisition of two sites in 1915, appropriations for purchases began in 1921 and continued until cut short by the depression following 1930. The same policy in respect to county, township, and municipal forests was legislated in 1921. Thus we find the accepted policy at present to be that State and local governments can own and manage lands for forestry purposes when such will serve the best public interest. In time this policy will involve the management of extensive lumbering operations in addition to the business of growing trees.

A similar policy prevails in respect to the ownership of lands suited to the development and conservation of wild life and recreation.

The trend of events has demonstrated the desirability of public ownership and management of some land unsuited to agricultural purposes and this policy, as outlined above, is now popularly accepted as a proper public function. This is not a reversal of the original policy of recognizing private property in land as conducive to the highest and best use. But it is a recognition that under some circumstances when private ownership fails to function satisfactorily, public ownership must supply the management necessary to serve the public welfare. So far this policy has applied almost exclusively to lands generally considered submarginal for the usual agricultural purposes. An exception to the above must be made in case of lands acquired in connection with drainage reservoirs, recreational parks, etc.

Drainage

Legislation relative to drainage has been enacted every few years from the 1840's to the present time. The first great need was to dispose of surplus water in order to fully utilize some of the best agricultural land in northern and western Ohio. Result: more than 8,000,000 acres have been drained by county and township ditches. Prior to 1853 ditch construction was by authority granted by a special Act in each case; but in that year a general Act authorized township trustees to establish water courses and locate ditches. This Act was amended in 1854, 1857, and 1859 and was finally replaced by another Act in 1861 which shifted the main responsibility for ditch construction to the county with the provision that when a ditch was entirely within the bounds of a township, the trustees could proceed under the law instead of the county commissioners. The Act of 1861 provided that when the commissioners deemed the improvement conducive to the public health, convenience, or welfare, they "could cause to be located, established, and constructed any ditch, drain, or water course in the county".

Subsequent developments in our drainage laws have called for frequent legislation, for the original law lacked the details developed through the years to meet more and more special circumstances; however, the general procedure established in 1861 was not much different from that in effect today in respect to the drainage of agricultural land. In brief, the public policy was developed nearly a century ago that management of drainage districts was a proper public function.

Conservancy Districts

From the standpoint of rural land use the next important drainage development was the enactment of a conservancy district law in 1914. The conservancy clause of the State Constitution of 1912 cleared the way for this as well as for the public acquisition of land for forestry purposes, game preserves, etc. The present conservancy district law was enacted in 1937 with broader powers than the original Act. The prime purpose is still to prevent floods but a conservancy district now can function also as a water supply, sanitary, or sewer district. Flood control is inevitably associated with problems of soil erosion, type of farming, and reforestation, which naturally relates the activities of a conservancy district to a comprehensive program of land use.

Regional or County Planning Commissions

Appointment is by the county commissioners upon petition of the city planning commissions in an area. This is a development, dating back to 1914-15, intended to produce an orderly development in metropolitan areas but incidentally affecting some rural land. In addition to the function of developing plans for highway systems, sanitation, platting of subdivisions, etc., these commissions also have some zoning authority particularly developed under an Act passed in 1935. At present if a planning commission has been created in an area, it must approve the plans for plats and subdivisions anywhere in the county or region, thereby exercising some zoning control in limited rural areas.

Proposed Legislation Relative to Land Use Planning

Rural Zoning.- Bills were introduced in the Ohio Legislature in 1936 and again in 1937 to prevent, through zoning, haphazard industrial and residential developments in rural areas. The last bill was so drawn as to apply only to the nine most populous counties. Neither bill was an attempt to zone land used for agricultural purposes.

Soil Conservation Districts.- The Ohio Legislature passed a bill in 1937, patterned after a model law sponsored by the U.S. Department of Agriculture, to establish soil conservation districts. The Ohio bill was vetoed. The essence of this proposed law was to enable a group of farmers (25 or more) to plan for the use of land in their area, establishing just what land should be cultivated, pastured or kept in forest. The plan, like zoning, authorized the use of the police power to prevent non-conforming uses.

IN CONCLUSION

Practically all legislation related to agriculture has been enacted on the assumption that it in some way served the public welfare; the idea being that agriculture as a basic industry affects the well-being of all the people. As the years pass the tendencies in law making are influenced by the emergence of new situations or new implications placed on old conditions. For instance, the meager regulations in the pre-Civil War period in respect to public health as affected by food supplies were greatly expanded between 1870 and 1910 due largely to the advancement of scientific knowledge. In respect to rural land use, the drainage laws were fairly well developed by about 1860; the problem then was merely the disposal of surplus water. Since 1910 attention has centered more on conservation and development of the dwindling natural resources and on systematic planning for the best land use. Agricultural education has developed through the years as new methods of approach to rural problems have been adopted. In respect to policy, the dominant tendency has been to broaden the scope of activity in order to contact and benefit more people both old and young. It is now recognized that education in a changing world must be a continuous process. Agricultural cooperatives have passed through two cycles of legislation. The first, following the Civil War was merely concerned with writing cooperative principles into corporation law. The second cycle, following the World War, was likewise concerned with shaping the legal framework of cooperative associations and also with the establishment of the legal difference between cooperatives and business trusts.

Finis cannot be written on any legislation. As life becomes more and more complicated, human comprehension may be developed to legislate wisely and not too much.